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VERIFICATION OF TRANSLATION

Title of Translated Document:: **International Publication Number:**
WO 2005/040640 A1

Original Language of Translated Document: **German**

The undersigned declares that:

1. I am a professional translator with English as a native language and German as an acquired language. With over thirty years of full-time translating experience in general, medical, technical, chemical and related fields.
2. To the best of my knowledge and belief, the attached is a true, accurate and complete English translation of the above-referenced German document

Date: March 17, 2006

Signature:


A.M. Russell

PATENT COOPERATION TREATY

From the

INTERNATIONAL PRELIMINARY EXAMINATION AUTHORITY

[Handwritten] AK KW 29 Months: 02/19/06

To:

KOCH-HULD, Annegret
Dr. Weitzel & Partners
Patent Attorneys
Friedenstrasse 10
89522 Heidenheim
GERMANY

[stamp] Received

Dr. Weitzel & Partners
5 December 2005
RL: VT:
Final deadline:

PCT

NOTIFICATION OF TRANSMITTAL OF INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(PCT Rule 71.1)

Date of mailing
(day/month/year)

5 December 2005

Applicant's or Attorney's file reference PG 06168WO	IMPORTANT NOTIFICATION	
International Application No. PCT/EP2004/009765	International Filing Date (day/month/year) 2 September 2004	Priority Date (day/month/year) 19 September 2003
Applicant VOITH TURBO GMBH & CO. KG et al.		

1. The Applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the selected Offices.
3. Where required by any of the selected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to this Office.
4. **REMINDER**

The Applicant must enter the national phase with each selected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/1B/301).

Where a translation of the international application must be furnished to a selected Office, this translation must contain a translation of all annexes to the international preliminary report on patentability. It is the Applicant's responsibility to prepare and furnish such translations directly to each selected Office concerned.

For further details on the applicable time limits and requirements of the selected Offices, see Volume II of the *PCT Applicant's Guide*.

The Applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step, and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State (...) may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed invention is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity, and support for the claims.

Name and mailing address of the International Patent Examination Authority [stamp] European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Netherlands Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Rincon Ruiz, M. [stamp] European Patent Office Tel. +31 70 340-4346
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PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

Applicant's or Attorney's file reference PG 06168WO	FOR FURTHER ACTION		See Form PCT/IPEA/416
International Application No. PCT/EP2004/009765	International Filing Date (<i>day/month/year</i>) 2 September 2004	Priority Date (<i>day/month/year</i>) 19 September 2003	
International Patent Classification (IPC) or national classification and IPC F16H47/06, F16H3/12			

Applicant VOITH TURBO GMBH & CO. KG et al.

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the Applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the Applicant and to the International Bureau</i>) a total of 5 sheets, as follows:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> sheets of the description, claims, and/or drawings, which have been amended and are the basis for this report, and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets that supersede earlier sheets, but which this Authority considers contains an amendment that goes beyond the disclosure in the international application as filed, as indicated in of Box No. 1 of item 4 and the Supplemental Box. <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of i> (indicate type and number of electronic carrier(s)), containing a sequence listing and/or a table related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>	
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the Office Action <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step, and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Statement with grounds under Article 35(2) with regard to novelty, inventive step, and industrial applicability; documents and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application 	
Date of submission of the request 13 July 2005	Date of completion of this report 5 December 2005
Name and mailing address of the International Patent Examination Authority [symbol] European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Netherlands Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized officer Goeman, F [symbol] European Patent Office Tel. +31 70 340-4086

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International Application No.
PCT/EP2004/009765

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on the translation from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1 (b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
 2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets that have been furnished to the Receiving Office in response to a request under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-19 as originally filed

Claims, No.

1-22 received on 07/13/2005 with fax

Drawings, Sheets

1/9-9/9 as originally filed

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

 - Description, pages:
 - Claims, Nos.:
 - Drawings, sheets/figs:
 - Sequence listing (*specify*):
 - Any table(s) related to the sequence listing (*specify*):
 4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure filed for the reasons given in the opinion of the Authority, as indicated in the Supplemental Box (Rule 70.2 (c)).

 - Description, pages:
 - Claims, Nos.:
 - Drawings, sheets/figs:
 - Sequence listing (*specify*):
 - Any table(s) related to the sequence listing (*specify*):

* If item 4 applies, some or all of those sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY**

International Application No.
PCT/EP2004/009765

Box No. V Statement with grounds under Article 35 (2) with regard to novelty, inventive step, and industrial applicability; documents and explanations supporting such statement

1. Determination

Novelty (N)	Yes:	Claims 1-22
	No:	Claims
Inventive step (IS)	Yes:	Claims 12-15, 17, 19, 22
	No:	Claims 1-11, 16, 18, 20, 21

Industrial applicability (IA)

Yes: Claims: 1-22
No: Claims:

2. Documents and explanations (Rule 70.7):

See Annex

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(ANNEX)**

International Application No.
PCT/EP2004/009765

Regarding Point V

Statement with grounds with regard to novelty, inventive step, and industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:
D1: DE 198 40 287 A (VOITH TURBO KG) September 9, 1999 (09/09/1999)

2. Document D1 discloses (the references in parentheses refer to this document): A gearbox module having a gearbox input (1) and at least one gearbox output (30), having a starting element (10) that is coupled to the gearbox input (1) and is designed as a hydrodynamic component, comprising an input (12) and an output (14) that can be coupled at least indirectly to the gearbox output (30); having a gearshifting device, comprising at least two inputs (5, 3) and an output that can be connected to the gearbox output (30); a first input (3) of the gearshifting device is connected to the output (14) of the starting element (10) and a second input (5) of the gearshifting device is connected to the input (12) of the starting element (10); each input (3, 5) of the gearshifting device can be selectively connected via one shiftable coupling or clutch (22, 26 and the clutch described in column 4, line 53) to the output of the gearshifting device, thereby producing a first power branch and a second power branch, whereby the two synchronously shiftable clutches (22, 26 and the clutch described in column 4, line 53) enable power to flow via the power branches respectively alone in a closed state. In this regard, it is additionally observed that each clutch is synchronously shiftable. In column 3, line 3, it is disclosed that the starting unit can also be used for braking. It is clear to the practitioner that the starting unit can be used for braking only when the two power branches and therefore the clutches on the two power branches are closed. The subject of claim 1 is therefore not based on an inventive step (PCT Article 33(3)).

3. Document D1 also discloses additional features of the dependent claims 2 to 4, 7 to 11, 16, 18, 20, and 21. From claims 5 and 6, it is not clear whether the clutches

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(ANNEX)**

International Application No.
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of the first power branch are also designed as positively locking clutches, for which reason Document D1 also discloses the additional features of claims 5 and 6. Involved in the case of the features of claim 19 is only one of several obvious possibilities, from which the practitioner could choose according to the circumstances without inventive input in order to solve the problem. The subject of claims 2 to 11, 16, 18, 20, and 21 is therefore not based on an inventive step (PCT Article 33(3)).

4. The combination of features contained in the dependent claims 12 to 15, 17, 19, and 22 is neither known from the prior art, nor is it obvious from the prior art, and thus fulfill the requirements of the PCT in regard to novelty and inventive step.